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EXAMINER

ARANI, TAGHI T

ART UNIT PAPER NUMBER

2131

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/679,320

Applicant(s)

BURSTYN, HERSCHEL CLEMEN

Examiner

Taghi T. Arani, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-23 were pending for examination.

Response to Amendment

The amendment to the drawings has overcome the previous objection.

The amendment to the specification has overcome the previous objection.

Response to Arguments

Applicant's arguments filed 6/10/2004 have been fully considered but they are not persuasive.

Applicant has argued that the Copeland reference does not teach "imposing modulated entities on video content of video source material, the modulated entities including artifacts incompatible with the video content" recited in claim 1, page 7, second paragraph. The Applicant argues that Copeland's fingerprint data is imperceptible to a viewer. In the specification, the Applicant has stated that video source material can include the video content, entities that are incompatible with the video content, and the keys the projection system requires to render the entities imperceptible to a human during projection, page 9, line 5. That is, the artifacts incompatible with the video content is "imperceptible" to a viewer.

The Examiner responds that the Applicant fails to define the claimed "artifacts incompatible".

According to the MPEP 904.01, the Examiner is obligated to give each term in the claims its broadest reasonable interpretation. See also *In re Morris*, 127 F.3d 1048, 44 USPQ2nd 1023 (Fed. Cir. 1997).). The Examiner's broadest reasonable interpretation of the term "artifacts incompatible" corresponds to Copeland's fingerprint data.

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The Examiner notes the Applicant of the case (*Intervet America Inc. v. Kee-Vet Laboratories Inc.*, 12 USPQ2d 1474 (CA FC 1989)) which discusses improperly construing a limitation of claim not limited by its recitation in the claim nor limited in the written description and the case (*Bell Atlantic Network Services Inc. v. Covad Communications Group Inc.*, 59 USPQ2d 1865 (CA FC 2001)) which the court affirmed summary judgment of claim construction using the specification as guidance in interpreting the claims.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, 5, 10, 11, 12, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,668,303 to Copeland.

Referring to claim 1, Copeland teaches a method for distorting a recording of projected images, comprising the steps of:

imposing modulated entities on video content of video source material, the

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modulated entities including artifacts incompatible with the video content [column 2, lines 18-22];

demodulating the modulated entities [column 3, lines 1-11]; and
projecting the video content to provide the projected images [column 2, line 11-12].

Referring to claim 5, Copeland teaches the method of claim 1 further comprising the step of encoding modulation information corresponding to the modulated entities, wherein the projecting step further includes the step of decoding the modulation information [column 3, lines 54-56].

Referring to claim 10, Copeland teaches the method of claim 1 wherein the video source material comprises film [column 4, lines 59-63].

Referring to claim 11, Copeland teaches the method of claim 5 wherein the video source material comprises film, the encoding step including storing the modulation information on the film [column 4, lines 54-58].

Referring to claim 12, Copeland teaches the method of claim 5 further comprising the step of varying the modulation information with respect to the video source material [column 2, lines 45-47].

Referring to claim 23, Copeland teach the method of claim 1 wherein the projecting step includes the further step of imposing a recording device dependent interference on the projected video content [column 2, lines 19-21].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,668,603 to Copeland in view of Video Scrambling and Descrambling for Satellite and Cable TV to Graf et al..

Referring to claim 2, Copeland teaches all limitations of claim 2 except wherein the step of imposing modulated entities includes the steps of: 0 separating the video content into selected colors;

varying at least one of a plurality of parameters of at least one of the selected colors.

However, Graf et al. teaches the method wherein the step of imposing modulated entities includes the step of varying at least one of a plurality of parameters of at least one of the selected colors [page 3, Chroma Transmission, lines 3-6].

Graf et al. does not explicitly teach separating the video content into selected colors.

However, Examiner takes Official Notice that separating the video content into selected colors is conventional and well known.

It would have been obvious at the time the invention was made to one of ordinary skill in the art to explicitly employ color separators in Graf et al. since Examiner takes Official Notice that separating the video content into selected colors is conventional and well known.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Graf et al.'s teachings of modulating to the system and

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method of Copeland, such that Copeland's system would include a color separator with the ability to vary a parameter of a selected color. One would have been motivated to modify Copeland's system as such in order to alter the picture to produce an unwatchable result [page 3, Scanning, lines 16-18].

Referring to claim 3, Copeland as modified teach the method of claim 2 wherein the at least one parameter is selected from the group comprising intensity, frequency, gain, brightness, luminance, duty cycle, amplitude, and wavelength [page 3, Chroma Transmission, lines 3-6 of Graf et al.].

Referring to claim 4, Copeland as modified teach the method of claim 3 further comprising the step of selecting a space for modulating the video content [column 2, lines 48-61 of Copeland].

Referring to claim 6, Copeland as modified teach the method of claim 4 wherein imposing the modulated entities further includes the step of modulating the video in the selected space [column 2, lines 48-61 of Copeland].

Referring to claim 7, Copeland as modified teach the method of claim 3 wherein the parameter comprises intensity, the varying step including the step of determining the intensity as a function of position on the video content [page 3, Chroma Transmission, lines 3-5 of Graf et al.].

Referring to claim 8, Copeland as modified teach the method of claim 3 wherein the parameter comprises duty cycle, the varying step including the step of determining the duty cycle as a function of position on the video content [column 2, lines 48-61 of Copeland].

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Referring to claim 9, Copeland as modified teach the method of claim 3 wherein the varying step includes the step of determining a value of the parameter as a function of position on the video content, the function describing a modulation envelope, the modulation envelope decreasing a magnitude of the parameter to correct an alignment error [column 2, lines 45-47 of Copeland].

Claims 13, 17-19 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,668,603 to Copeland in view of U.S. Patent No. 5,924,013 to Guido et al.

Referring to claim 13, Copeland teach video source material for a projection system, comprising:

modulated entities for providing artifacts incompatible with a video content of the video source material [column 2, lines 18-22]; and Copeland does not teach a video source material for a projection system, comprising:

selectively deliverable modulation information, wherein the projection system demodulates the modulated entities according to the modulation information and introduces a recording device~ dependent interference. However, Guido et al. a video source material for a projection system, comprising:

selectively deliverable modulation information, wherein the projection system demodulates the modulated entities according to the modulation information and introduces a recording device dependent interference [column 4, lines 54-58].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Guido et al.'s teaching of receiving downloadable information from a remote source to the system and method of Copeland, such that

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Copeland's system would scramble the modulated information in figure 1 and descramble the demodulated information in figure 2 if figure 2 contains a valid security code key.

One would have been motivated to modify Copeland's system as such in order to provide a secure transmission of information over insecure networks.

Referring to claim 14, Copeland as modified teach the video source material of claim 13 wherein the modulated entity is a shape imposed on the video content of the video source material, the shape being color modulated as a function of position on the video content [column 2, lines 48-51 of Copeland].

Referring to claim 15, Copeland as modified teach the video source material of claim 14 wherein the function decreases a magnitude of a modulated parameter in proximity to an edge of the shape [column 2, lines 12-14 of Copeland].

Referring to claim 16, Copeland as modified teach the video source material of claim 13 wherein the modulated entity includes a spatially modulated entity [column 4, lines 53-57 of Copeland].

Referring to claim 17, Copeland teaches a system for distorting a recording of projected images, comprising:

video source material having modulated entities for providing artifacts incompatible with a content of the video source material [column 2, lines 18-22]

a projector system responsive to the video source material to provide the projected images, the projector system including:

a modulator responsive to the video source material, the modulator imposing a recording device dependent interference on the projected images [figure 1, DATA MODULATOR 22].

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Copeland does not teach a system for distorting a recording of projected images, comprising selectively deliverable modulation information; and

the projector system including a demodulator responsive to the video source material for demodulating the modulated entities according to the selectively deliverable modulation information.

However, Guido et al. disclose teach a system for distorting a recording of projected images, comprising selectively deliverable modulation information [column 4, line 65- column 5, line 1]; and

the projector system including a demodulator responsive to the video source material for demodulating the modulated entities according to the selectively deliverable modulation information [column 4, lines 54-58].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Guido et al.'s teaching of receiving downloadable information from a remote source to the system and method of Copeland, such that Copeland's system would scramble the modulated information in figure 1 and descramble the demodulated information in figure 2 if figure 2 contains a valid security code key. One would have been motivated to modify Copeland's system as such in order to provide a secure transmission of information over insecure networks.

Referring to claim 18, the system of claim 17 wherein the video source material includes film and wherein the modulation information is encoded on the film [column 4, lines 54-63 of Copeland].

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Referring to claim 19, Copeland as modified teach the system of claim 17 wherein the modulated entities are color modulated and the modulator varies a projection rate of the modulated color [column 4, lines 54-63 of Copeland],

Referring to claim 21, Copeland as modified teach the system of claim 17 wherein the projection system includes an electronic projection system and the modulation information includes information downloadable from a remote source [figure 1 of Guido et al.].

Referring to claim 22, Copeland as modified teach the system of claim 17 wherein the modulation information includes packetized information [column 2, lines 23-26 of Copeland].

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,668,603 to Copeland in view of U.S. Patent No. 5,924,013 to Guido et al. in further view of Video Scrambling and Descrambling for Satellite and Cable TV to Graf et al..

Referring to claim 20, Copeland as modified teach all limitations of claim 20
a scanner operable to scan a white light strip over a frame;
a color separator operable to separate the white light strip into color light strips;
and
a separator operable to separate the modulated entities into component colors,
wherein the modulator modulates the component colors of the spatial entities over
at least one of the color light strips.

However, Graf et al. teach the projection system wherein the modulated entities are spatial entities, the projection system including:

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a scanner operable to scan a white light strip over a frame [page 3, Scanning];
a color separator operable to separate the white light strip into color light strips
a separator operable to separate the modulated entities into component colors,
wherein the modulator modulates the component colors of the spatial entities over
at least one of the color light strips [page 3, Chroma Transmission, lines 3-6].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Graf et al.'s teachings of modulating to the system and method of Copeland, such that Copeland's system would include a color separator with the ability to vary a parameter of a selected color. One would have been motivated to modify Copeland's system as such in order to alter the picture to produce an unwatchable result [page 3, Scanning, lines 16-181.

Action is Final

THIS ACTION IS FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Taghi T. Arani whose telephone number is (571) 272-3787. The examiner can normally be reached on 8:00-5:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Taghi T. Arani, Ph.D.
Examiner
Art Unit 2131

E. Moise
EMMANUELL. MOISE
PRIMARY EXAMINER
11/11/13